

CORNELIUS ROBINSON §
VS. § CIVIL ACTION NO. 1:13-CV-82
JODY R. UPTON §

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court concludes the objections are without merit. Citing *United States v. Cotton*, 535 U.S. 625, 630 (2002), petitioner contends that he may challenge subject matter jurisdiction at any time. The Supreme Court held in *Cotton* that a defective indictment does not deprive a court of jurisdiction. *Cotton*, 535 U.S. at 631. The Supreme Court did not hold that a challenge to the court’s subject matter jurisdiction can be raised for the first time in a § 2241 petition.

Petitioner may not challenge his conviction or sentence under § 2241, because his claims do not meet the requirements set forth in *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001); *see also Wesson v. U.S. Penitentiary*, 305 F.3d 343, 347 (5th Cir. 2002) (“This court must apply the *Reyes-Requena* actual innocence test as the binding precedent in this circuit. . . .”).

ORDER

Accordingly, petitioner’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge’s recommendation.

So **ORDERED** and **SIGNED** this **10** day of **April, 2013**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge